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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Telecommunications Relay Services)
And Speech-to-Speech Services for)
Individuals with Hearing and Speech)
Disabilities)
_____)

CC Docket Nos. 98-67

PETITION FOR TEMPORARY WAIVER

Sprint Communications Company L.P. ("Sprint"), on behalf of its Telecommunications Relay Services ("TRS") operations and pursuant to Section 1.3 of the Commission's Rules, 47 C.F.R. §1.3, hereby respectfully requests that the Commission waive for a period of two years certain of the minimum mandatory requirements set forth in Sections 64.603 and 64.604 of the FCC's Rules, 47 CFR §§64.603 and 64.604, that an entity providing Video Relay Service ("VRS") must meet. Specifically, Sprint asks such temporary relief from the following requirements with respect to its provision of VRS: (1) the speed of answer requirement (the so-called "85/10" rule), 47 CFR §64.604(b)(2); (2) the emergency call requirement, 47 CFR §64.604(a)(4); (3) the pay-per-call requirement, 47 CFR §64.604(b)(6); (4) the requirement to provide equal access to interexchange carriers (*i.e.*, carrier of choice), 47 CFR §64.604(b)(3); and (5) the apparent requirement for Spanish VRS, 47 CFR §64.603. "Good cause" exists for granting Sprint the requested temporary extension, 47 C.F.R. §1.3, since "the particular facts" involved in the provision of VRS "make strict compliance" with the mandatory minimum requirements "inconsistent with the public interest." *Northeast Cellular Telephone Co. v. FCC*,

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897 F.2d 1164, 1166 (D.C. Cir. 1990) citing *WAITt Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1027 (1972). In support thereof, Sprint states as follows.¹

In its decision in *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CC Docket No. 98-67, 15 FCC Rcd 5140. (2000) ("*Improved TRS Decision*"), the Commission explained that VRS has the potential to greatly enhance access to the public switched network by hearing-impaired individuals, especially those for whom American Sign Language ("ASL") is their primary means of communications. Moreover, VRS permits users to have telephone conversations at nearly the same speed as the verbal telephone calls between non-hearing impaired individuals. Text-based relay calls simply cannot approach such speed. For these reasons, Sprint believes that there is significant, albeit untapped, demand for VRS and that the service will eventually develop into an economically viable mass market offering.

Currently, and perhaps for the foreseeable future, the development of VRS is being hampered by the significant costs of providing the service, especially the need to make video-conferencing equipment and broadband facilities available to those who may wish to utilize VRS for their calls as well as the need to employ qualified interpreters. As the report filed November 9, 2000 by the Interstate Fund Advisory Council ("Council") and the TRS Fund Administrator ("Administrator") recommending guidelines for cost recovery for TRS service made clear, it is much more expensive to provide VRS than traditional TRS. Unlike traditional TRS, the provision of VRS requires the deployment of video technology, including broadband

¹ Sprint notes that Hamilton Telephone Company has also requested a waiver of the minimum mandatory requirements. Request for Clarification and Temporary Waiver filed April 6, 2001.

access lines, and the hiring of qualified interpreters to serve as Communications Assistants ("CAs"). The up-front technology costs "could be substantial" and the wages and other benefits necessary to attract and retain qualified interpreters "will be significant." Recommended TRS Cost Recovery Guidelines ("Recommended Guidelines") at 8.

Plainly, if the Commission's goal of having a viable nationwide VRS available to the hearing-impaired community is to be realized -- a goal which Sprint fully supports -- the Commission must act to minimize the costs involved in providing VRS and to ensure that relay providers that offer or want to offer VRS are able to recover their full costs in a reasonable and timely manner. Unless the Commission takes such actions, Sprint doubts that VRS will become widely available.² Carriers (and ultimately their customers) will balk at funding such an expensive service. Moreover, relay providers will be reluctant to provide VRS if the recovery of their substantial up-front investments will extend over a rather long period of time or, even worse, they may not be able to fully recover such investments.

In its *Improved TRS Decision*, the Commission sought to address concerns about VRS costs, the recovery of those costs and the need not to "stymie experimentation" by VRS providers "with different technologies" *id.* at 5153 (¶23), by adopting an approach that it believed would enable VRS providers to be compensated for their provision of VRS regardless of the system or systems such providers employed. Specifically, the Commission has authorized the "recovery of

² Currently, Sprint offers VRS in Texas. Users of the service must acquire their own videoconferencing equipment and broadband facilities. To its credit, however, the State subsidizes such acquisitions, thereby reducing the cost of VRS service to end users and enabling them to avail themselves of VRS from their homes. VRS is also available in North Carolina where VRS users must travel to designated locations to use the videoconferencing capabilities (both videoconferencing equipment and broadband communications) made available at those locations.

costs associated with both intrastate and interstate [VRS] calls from the interstate TRS fund." *Improved TRS Decision* at 5153, ¶24. The Commission found that this approach to funding "has the potential to quickly give all consumers who can access it the benefit of video relay service." This is so, the Commission explained, because its approach would "reduce costs" by enabling TRS providers to aggregate demand at one location without regard to jurisdictional boundaries and would "spur industry and consumer investment in the equipment and technologies necessary to use [VRS], without burdening state relay programs or engendering any of the risks associated with mandating the use of equipment that has not been fully tested in the market place." *Id.* Moreover, this approach, the Commission explained, "permits market forces, not the Commission, to determine the technology and equipment best suited for the provision of [VRS] and allows for the development of new and improved technology." *Id.* at 5153 (¶23).

Unfortunately, the Commission's decision to require that providers of VRS meet the minimum standards set forth above has the effect, contrary to the Commission's expectations, of preventing VRS providers from experimenting with various technologies to develop an efficient and effective VRS service. Even if VRS providers want to experiment with a new technology or technologies which could potentially lead to the efficient provision of VRS but which may not have been designed -- at least for the experimental stage -- to meet the minimum standards, they will not recover their costs incurred in deploying such technologies from the Interstate TRS fund. The TRS Fund Administrator has informed Sprint that unless it can meet all of the minimum standards established by the Commission for VRS, it is not "eligible for reimbursement from the Interstate TRS Fund for [VRS]" it provides. Letter dated February 14, 2001 to Paula J. Holbrook, TRS Program Manager for Sprint from Maripat Brennan, Manager, Fund Administration (attached as Appendix A). Ensuring that every technology that a VRS provider

may wish to test during the developmental stage of VRS meets the minimum standards simply increases the costs of such experimentation which, in turn, places additional burdens on the Interstate TRS fund and carriers that contribute to it. And paying for these additional costs may be wasteful especially if the experimental technology does not "pan out."

Sprint cannot be expected to expand the availability of and vigorously promote VRS unless it is reimbursed from the interstate TRS Fund. But, Sprint is not "eligible" for such reimbursement unless it meets standards that, because they were designed for the provision of ordinary text-based TRS service, may have little, if any applicability, to VRS. It is nonsensical to expect Sprint to meet these minimum standards at least during the developmental stage of VRS and perhaps longer. Sprint, therefore, must be granted a waiver of the requirement to meet such standards if it is to help the Commission achieve its over-arching goal of having affordable VRS available on a nation-wide basis. The specific standards for which Sprint seeks a waiver are as follows.

1. Speed of Answer Requirement (the so-called "85/10" rule)

Under this standard, providers of VRS must "answer 85% all calls within 10 seconds by any method which results in the caller's call being placed, not put on a queue or on hold." 47 CFR §64.604(b)(2). To meet this requirement, VRS providers will have to hire more qualified sign language interpreters than would otherwise be justified based on the volume of VRS traffic. This assumes, of course, that there are qualified sign language interpreters available who would be willing to work in a VRS center. This may not be the case. There appears to be nationwide

shortage of qualified interpreters which in turn makes it difficult, if not impossible, to staff a VRS center in order to meet the 85/10 standard.³

Moreover, a standard that would likely require that a VRS provider have two or three qualified interpreters on duty each hour for those occasions when several calls arrive at the VRS center at approximately the same time will all but destroy the ability of provider of VRS to realize any economies of scale. The Commission has recognized that "given that demand for VRS will be low initially, because the service is in its infancy," it will be more cost-effective to aggregate VRS demand in one center. *Improved TRS Decision* at 5153, ¶25. By doing so, the VRS provider is able to minimize a relay interpreter's "down time." *Id.* Plainly, if relay providers must employ more relay interpreters than is justified by low demand to ensure that they comply with the "85/10" rule, they will not be able to provide VRS in as efficient manner as possible.⁴ And, the high costs of providing VRS caused by the "85/10" rule may well deter States authorizing the provision of VRS to their citizens. Indeed, since the current funding method established by the Commission is temporary, the States may realize that eventually they may have to "pick up" the costs of an already expensive service made more costly by the

³ Given such nationwide shortage, a VRS provider may not be able to achieve the efficiencies of providing VRS through one center and instead may have to establish VRS centers in those cities where there exists a qualified pool of interpreters. In any case, a provider of VRS may have to offer extremely generous wage and benefit packages in order to attract qualified interpreters, thereby further increasing a VRS provider's costs.

⁴ In order to meet the "85/10" requirement on a daily basis, a VRS provider would need to have sufficient historical data available in order to determine calling patterns. To date there is very little such information available which, in turn, may force the VRS provider to hire more staff than would otherwise be justified by such demand just to comply with the "85/10" requirement.

inefficiencies that will result from the application of the Commission's "85/10" rule. A waiver of such rule as requested by Sprint is, therefore, clearly justified and in the public interest.⁵

2. Emergency Call Requirements

It also makes little sense to require VRS providers to comply with the new requirements for handling emergency calls. Even if the costs of the systems necessary for the VRS provider to meet such requirements are not substantial -- and Sprint strongly doubts that this is the case -- the costs would have been needlessly incurred since it is unlikely in the extreme that a person in an emergency situation would seek to use VRS to place these types of calls regardless of where they are able to access a provider's VRS. For example, in North Carolina, an end user must travel to a designated locations, such as mall, where the VRS provider has installed the video equipment necessary to access VRS in order to make the VRS call. Obviously, a person with an emergency is probably not in a position to travel to a site where the VRS provider has installed its video equipment in order to make an E911 call. Even in cases where a VRS user is able to make VRS calls from the convenience of his/her home or office, as is the case in Texas, use of VRS to place emergency calls is not a viable option. The fact is that the set up time for VRS calls is much longer than the call set up time necessary to make a TTY call to a TRS center because the VRS provider must synchronize the video signal over multi-channel broadband facilities. Since the at home VRS user in an emergency will want to be connected to the nearest PSAP as quickly as

⁵ The systems that would be necessary to monitor and measure compliance with the "85/10" requirement, as well as blocking levels, currently are not available on Sprint's existing platform for VRS and it is Sprint's understanding that the development and installation of such systems will be expensive. To make matters even worse, there is no solution available for measuring compliance with "85/10" rule or call blocking for VRS calls coming to Sprint's VRS center over facilities with IP protocol. Based on data from Texas, the majority of VRS users calling into Sprint VRS center utilize IP access.

possible, he/she is more likely to call the TRS center with a TTY -- if not the PSAP directly -- than contact the VRS center to set up a video relay call.⁶ Plainly, a waiver of the emergency call requirements for VRS is justified.

3. Pay-Per-Call Requirements

For similar reasons a waiver of the pay-per-call requirements for providers of VRS should be granted. A person making a 900 pay call to obtain information (*e.g.*, answers to crossword puzzle clues) or to participate in a poll may not want to waste the time or incur the additional expense of travelling to a remote site merely to obtain such information or participate in such poll through VRI.⁷ In any event, Sprint requires additional time to develop the interfaces between the VRS and TRS platforms that will be necessary to provide users with the functionality of pay-per-call service. Barring circumstances not now foreseen, Sprint is confident that it will be able to develop such interfaces during the two years requested by its waiver request.

4. Carrier of Choice

The requirement that VRS providers afford the opportunity to VRS users to choose their long distance carrier to handle their VRS calls, *see* 47 CFR §64.604((b)(3), also needs to be waived. The systems that are necessary to hand off an video teleconferencing call to a carrier preferred by the end user simply do not exist at the present time and have to be developed.

⁶ Since there is no requirement that VRS providers make VRS available 24 hours a day 7 days a week, *Improved TRS Decision* at 5159-60. ¶42, a person with an emergency can never be certain that VRS center will even be open to handle the call.

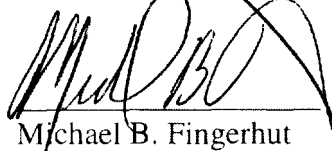
⁷ Perhaps a person may want to obtain pay-per-call adult services through VRS regardless of the location of the video provider's site. But to require VRS providers to incur the significant costs of providing such pay-per-call services through VRS is hardly in the public interest.

5. Spanish VRS

Sprint also requests a waiver of the Commission rules that may require providers of VRS to ensure that users are able to utilize ASL to communicate with Spanish-speaking individuals. Sprint recognizes that such waiver may not be necessary because the Commission's rules do not provide for TRS translation services, *e.g.*, Spanish-to-English or English-to-Spanish. Nonetheless, there appears to some question as to whether under the Commission's *Improved TRS Decision* a VRS provider must offer to translate ASL to Spanish and Spanish into ASL. *See* Hamilton Waiver Petition at 3-4. Thus, Sprint is asking for a waiver here out of an abundance of caution. A waiver is justified because currently the pool of qualified Spanish speaking sign language interpreters is small and it will take some time to increase their numbers.

Respectfully submitted,

SPRINT COMMUNICATIONS COMPANY L.P.

A handwritten signature in black ink, appearing to read "Michael B. Fingerhut", is written over a horizontal line.

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February 14, 2001

Paula J. Holbrook
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8330 Ward Parkway, Room 422
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Original sent via fax to 816-854-2623.

Dear Paula:

Today, I received your letter and invoice for Video Relay Service (VRS) minutes for October, November and December 2000. Unfortunately, based on the information provided, these minutes are not eligible for reimbursement from the Interstate TRS Fund.

In your letter, you stated that "Sprint recognizes that its current VRS product does not meet all of the newly established VRS standards," but that you "have made considerable efforts to offer VRS to relay consumers as encouraged by the Federal Communications Commission." We appreciate your efforts and that you do comply with many of the FCC requirements, but the Fund cannot reimburse Sprint for VRS minutes until/unless all of the requirements are met.

Once Sprint meets all of the FCC VRS requirements, please submit minutes from that point on in the VRS section of the standard monthly report.

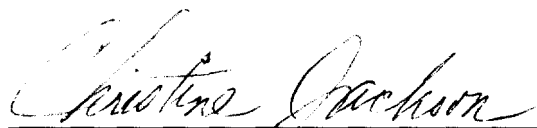
Please contact me if you would like to discuss your request for reimbursement in more detail.

Yours truly,

A handwritten signature in cursive script, which appears to read "Maripat", is written over the typed name.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **PETITION FOR TEMPORARY WAIVER** of Sprint Communications Company L.P. was sent by hand on this the 4th day of June, 2001 to the below-listed parties:


Christine Jackson

June 4, 2001

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